

By Senator Latvala

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1                   A bill to be entitled  
2       An act relating to condominium terminations; amending  
3       s. 718.117, F.S.; revising the default procedure for  
4       the optional termination of a condominium; requiring a  
5       plan of termination to be approved by at least 90  
6       percent of the total voting interests of the  
7       condominium; prohibiting a plan of termination from  
8       proceeding if 5 percent or more of the total voting  
9       interests reject the plan; revising the period during  
10      which a subsequent plan of termination is prohibited  
11      from being considered after a rejection; revising  
12      applicability; revising the requirement on who must be  
13      paid fair market value for his or her unit after  
14      rejecting a plan of termination; revising the written  
15      disclosures that are required to be provided before a  
16      plan of termination is presented; providing an  
17      effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

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21       Section 1. Subsection (3) of section 718.117, Florida  
22 Statutes, is amended to read:

23       718.117 Termination of condominium.—

24       (3) OPTIONAL TERMINATION.—Except as provided in subsection  
25 (2) or unless the declaration provides for a lower percentage,  
26 the condominium form of ownership may be terminated for all or a  
27 portion of the condominium property pursuant to a plan of  
28 termination approved by at least 90 ~~80~~ percent of the total  
29 voting interests of the condominium. If 5 ~~10~~ percent or more of

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30 the total voting interests of the condominium have rejected the  
31 plan of termination by negative vote or by providing written  
32 objections, the plan of termination may not proceed.

33 (a) The termination of the condominium form of ownership is  
34 subject to the following conditions:

35 1. The total voting interests of the condominium must  
36 include all voting interests for the purpose of considering a  
37 plan of termination. A voting interest of the condominium may  
38 not be suspended for any reason when voting on termination  
39 pursuant to this subsection.

40 2. If 5 ~~10~~ percent or more of the total voting interests of  
41 the condominium reject a plan of termination, a subsequent plan  
42 of termination pursuant to this subsection may not be considered  
43 for 24 ~~18~~ months after the date of the rejection.

44 (b) This subsection does not apply to any condominium  
45 created pursuant to part VI of this chapter until 10 ~~5~~ years  
46 after the recording of the declaration of condominium, unless  
47 there is no objection to the plan of termination.

48 (c) For purposes of this subsection, the term "bulk owner"  
49 means the single holder of such voting interests or an owner  
50 together with a related entity or entities that would be  
51 considered an insider, as defined in s. 726.102, holding such  
52 voting interests. If the condominium association is a  
53 residential association proposed for termination pursuant to  
54 this section and, at the time of recording the plan of  
55 termination, at least 80 percent of the total voting interests  
56 are owned by a bulk owner, the plan of termination is subject to  
57 the following conditions and limitations:

58 1. If the former condominium units are offered for lease to

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59 the public after the termination, each unit owner in occupancy  
60 immediately before the date of recording of the plan of  
61 termination may lease his or her former unit and remain in  
62 possession of the unit for 12 months after the effective date of  
63 the termination on the same terms as similar unit types within  
64 the property are being offered to the public. In order to obtain  
65 a lease and exercise the right to retain exclusive possession of  
66 the unit owner's former unit, the unit owner must make a written  
67 request to the termination trustee to rent the former unit  
68 within 90 days after the date the plan of termination is  
69 recorded. Any unit owner who fails to timely make such written  
70 request and sign a lease within 15 days after being presented  
71 with a lease is deemed to have waived his or her right to retain  
72 possession of his or her former unit and shall be required to  
73 vacate the former unit upon the effective date of the  
74 termination, unless otherwise provided in the plan of  
75 termination.

76 2. Any former unit owner whose unit was granted homestead  
77 exemption status by the applicable county property appraiser as  
78 of the date of the recording of the plan of termination shall be  
79 paid a relocation payment in an amount equal to 1 percent of the  
80 termination proceeds allocated to the owner's former unit. Any  
81 relocation payment payable under this subparagraph shall be paid  
82 by the single entity or related entities owning at least 80  
83 percent of the total voting interests. Such relocation payment  
84 shall be in addition to the termination proceeds for such  
85 owner's former unit and shall be paid no later than 10 days  
86 after the former unit owner vacates his or her former unit.

87 3. For their respective units, all unit owners other than

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88 the bulk owner must be compensated at least 100 percent of the  
89 fair market value of their units. The fair market value shall be  
90 determined as of a date that is no earlier than 90 days before  
91 the date that the plan of termination is recorded and shall be  
92 determined by an independent appraiser selected by the  
93 termination trustee. For a person ~~an original purchaser from the~~  
94 ~~developer~~ who rejects the plan of termination and whose unit was  
95 granted homestead exemption status by the applicable county  
96 property appraiser, or was an owner-occupied operating business,  
97 as of the date that the plan of termination is recorded and who  
98 is current in payment of both assessments and other monetary  
99 obligations to the association ~~and any mortgage encumbering the~~  
100 ~~unit~~ as of the date the plan of termination is recorded, the  
101 fair market value for the unit owner rejecting the plan shall be  
102 at least the original purchase price paid for the unit. For  
103 purposes of this subparagraph, the term "fair market value"  
104 means the price of a unit that a seller is willing to accept and  
105 a buyer is willing to pay on the open market in an arms-length  
106 transaction based on similar units sold in other condominiums,  
107 including units sold in bulk purchases but excluding units sold  
108 at wholesale or distressed prices. The purchase price of units  
109 acquired in bulk following a bankruptcy or foreclosure shall not  
110 be considered for purposes of determining fair market value.

111 4. The plan of termination must provide for payment of a  
112 first mortgage encumbering a unit to the extent necessary to  
113 satisfy the lien, but the payment may not exceed the unit's  
114 share of the proceeds of termination under the plan. If the unit  
115 owner is current in payment of both assessments and other  
116 monetary obligations to the association and any mortgage

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117 encumbering the unit as of the date the plan of termination is  
118 recorded, the receipt by the holder of the unit's share of the  
119 proceeds of termination under the plan or the outstanding  
120 balance of the mortgage, whichever is less, shall be deemed to  
121 have satisfied the first mortgage in full.

122 5. Before a plan of termination is presented to the unit  
123 owners for consideration pursuant to this paragraph, the plan  
124 must include the following written disclosures in a sworn  
125 statement:

126 a. The identity of any person or entity that owns or  
127 controls 25 ~~50~~ percent or more of the units in the condominium  
128 and, if the units are owned by an artificial entity or entities,  
129 a disclosure of the natural person or persons who, directly or  
130 indirectly, manage or control the entity or entities and the  
131 natural person or persons who, directly or indirectly, own or  
132 control 10 ~~20~~ percent or more of the artificial entity or  
133 entities that constitute the bulk owner.

134 b. The units acquired by any bulk owner, the date each unit  
135 was acquired, and the total amount of compensation paid to each  
136 prior unit owner by the bulk owner, regardless of whether  
137 attributed to the purchase price of the unit.

138 c. The relationship of any board member to the bulk owner  
139 or any person or entity affiliated with the bulk owner subject  
140 to disclosure pursuant to this subparagraph.

141 (d) If the members of the board of administration are  
142 elected by the bulk owner, unit owners other than the bulk owner  
143 may elect at least one-third of the members of the board of  
144 administration before the approval of any plan of termination.

145 Section 2. This act shall take effect July 1, 2017.